

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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UNITED STATES OF AMERICA,

Crim No. 17-158 (JRT/BRT)

Plaintiffs,

v.

JOHN EDWIN KUHNEL,

Defendants.

**MEMORANDUM OPINION  
AND ORDER AFFIRMING  
MAGISTRATE JUDGE RULING**

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Manda M. Sertich, Emily Polachek, Assistant United States Attorneys,  
**OFFICE OF THE UNITED STATES ATTORNEY**, 300 South Fourth  
Street, Suite 600, Minneapolis, MN 55415, for plaintiff.

John Edwin Kuhnel, OID #240886, Anoka County Jail, 325 East Jackson  
Street, Anoka, MN 55303, *pro se* defendant.

Pro se Defendant John Edwin Kuhnel objects to the Magistrate Judge’s denial of Kuhnel’s request to proceed *in forma pauperis* in her September 3, 2019 Order. (Objection to R&R and Orders at 13, Sept. 13, 2019, Docket No. 206.) The Magistrate Judge noted Kuhnel “already has access to the services of a court-appointed attorney as standby counsel” as he was previously determined to be unable to afford “adequate representation under the provisions of the Criminal Justice Act.” (Order at 1–2, Sept. 3, 2019, Docket No 198.) As a result, the Magistrate Judge ruled that Kuhnel’s request, to the extent it applies to the current proceedings, was moot. (*Id.* at 2.)

On nondispositive matters, the Court “must consider timely objections and modify or set aside any part of the order that is contrary to law or clearly erroneous.” Fed. R. Crim.

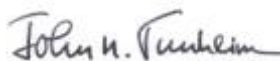
P. 59(a). The Court finds the Magistrate Judge did not clearly err and will affirm the Magistrate Judge's order and deny Kuhnel's objection.

Kuhnel has decided to proceed pro se. He has access to the services of a court-appointed standby counsel. Moreover, the Federal Defender has provided Kuhnel with additional resources to help him prepare his case. Kuhnel now complains that he cannot obtain unspecified public testimony without utilizing standby counsel because he cannot proceed without paying costs. But Kuhnel is not entitled to anything more under the Criminal Justice Act. As the Court has previously noted, the Eighth Circuit has stated that indigent pro se defendants are not entitled to reimbursement of costs; only court-appointed attorneys have that right. *Green v. United States*, 323 F.3d 1100, 1104 (8<sup>th</sup> Cir. 2003). Kuhnel can utilize the services of standby counsel should he wish to get the unspecified document or documents he seeks. If Kuhnel chooses to proceed on his own, without the assistance of his court-appointed standby counsel, he is "on a different footing altogether" and is not entitled to anything more. *Id.* at 1105.

### **ORDER**

Based on the foregoing, and all the files, records, and proceedings herein, Defendant's Objection to the Magistrate Judge's Order [Docket No. 206] is **OVERRULED** and the Magistrate Judge's Order [Docket No. 198] is **AFFIRMED**.

DATED: January 3, 2020  
at Minneapolis, Minnesota.

  
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JOHN R. TUNHEIM  
Chief Judge  
United States District Court